

**United States District Court  
Northern District of New York**

**PETITION FOR WRIT OF HABEAS CORPUS  
WHERE SENTENCE OF DEATH HAS BEEN IMPOSED**

\_\_\_\_\_  
-CV-

\_\_\_\_\_  
FULL NAME (Include name under  
which you were convicted)

Petitioner,

v.

\_\_\_\_\_  
NAME OF WARDEN (or other  
authorized person having custody  
of petitioner)

Respondent

and

ATTORNEY GENERAL OF THE  
STATE OF NEW YORK

**DEATH PENALTY CASE**

Place/County of Conviction \_\_\_\_\_  
Previously Filed, Related Cases in this  
District Court (List by case number)

\_\_\_\_\_  
-CV-

\_\_\_\_\_  
-CV-

\_\_\_\_\_  
-CV-

\_\_\_\_\_  
-CV-

(If petitioner is attacking a judgment which imposed a sentence to be served in the future, petitioner must fill in the name of the state where the judgment was entered. If petitioner has a sentence to be served in the future under a federal judgment which he wishes to attack, he should file a motion under 28 U.S.C. 2255, in the federal court which entered the judgment)

## **PETITION FOR WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY**

### **INSTRUCTIONS AND INFORMATION - READ CAREFULLY**

This petition shall be legibly handwritten or typewritten, and signed by the petitioner, under penalty of perjury. You must set forth **CONCISELY** the answer to each question in the proper space on the form. Any false statement of a material fact may serve as the basis for prosecution and conviction for perjury.

You must not attach separate pages to this petition, except that **ONE** separate additional page is permitted in answering Question No. 10.

Upon receipt of a fee of \$5.00, your petition will be filed if it is in proper order.

If you are seeking leave to proceed in forma pauperis (without paying the \$5.00 filing fee and other court costs), then you must also complete and execute an in forma pauperis application. You must have an authorized officer at your penal institution complete the certificate on this form, as to the amount of money and securities on deposit to your credit in any account in the institution.

When the petition is completed, the original and two copies must be mailed to the **Clerk of the United States District Court for the Northern District of New York, James T. Hanley Federal Building, P.O. Box 7367, 100 S. Clinton Street, Syracuse, New York 13261-7367.**

Only one sentence, conviction or parole matter may be challenged in a single petition. If you challenge more than one, you must do so by separate petitions.

## **PETITION**

1. Venue
  - a. Place of Detention\_\_\_\_\_
  - b. Place of Conviction\_\_\_\_\_
  - c. Place Sentenced\_\_\_\_\_
2. Conviction on which the petition is based (a separate petition must be filed for each conviction being attacked)
  - a. Nature of offense involved (include all counts)\_\_\_\_\_
  - b. Penal or other code section or sections\_\_\_\_\_
  - c. Case number\_\_\_\_\_
  - d. Date of conviction\_\_\_\_\_
  - e. Date of sentence\_\_\_\_\_
  - f. Length of sentence on each count\_\_\_\_\_
  - g. Plea (check one)
    1. Not guilty ( )
    2. Guilty ( )
    3. Nolo Contendere ( )
  - h. Kind of trial (check one)
    1. Jury ( )
    2. Judge alone ( )
    3. Judge alone on transcript ( )
  - i. Did you testify at trial?  
Yes ( )      No ( )
3. Did you appeal from the conviction of sentence?  
Yes ( )      No ( )
4. If you did appeal, give the following information for each appeal
  - a.
    1. Name of Court\_\_\_\_\_
    2. Result\_\_\_\_\_
    3. Date of Result\_\_\_\_\_
    4. Citation or number of opinion\_\_\_\_\_
    5. Grounds raised (list each)\_\_\_\_\_

- a. \_\_\_\_\_
- b. \_\_\_\_\_
- c. \_\_\_\_\_
- d. \_\_\_\_\_
- e. \_\_\_\_\_
- f. \_\_\_\_\_
- g. \_\_\_\_\_

b.

- 1. Name of Court \_\_\_\_\_
- 2. Result \_\_\_\_\_
- 3. Date of Result \_\_\_\_\_
- 4. Citation or number of opinion \_\_\_\_\_
- 5. Grounds raised (list each) \_\_\_\_\_
  - a. \_\_\_\_\_
  - b. \_\_\_\_\_
  - c. \_\_\_\_\_
  - d. \_\_\_\_\_
  - e. \_\_\_\_\_
  - f. \_\_\_\_\_
  - g. \_\_\_\_\_

5. If you did not appeal:

- a. State your Reasons \_\_\_\_\_

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b. Did you seek permission to file a late appeal?

Yes ( )      No ( )

6. Other than a direct appeal, have you previously filed any petitions, applications or motions with respect to this conviction in any court, state or federal?

Yes ( )      No ( )

7. If your answer to 6 was YES give the following information.

a.

1. Name of Court\_\_\_\_\_

2. Nature of proceeding\_\_\_\_\_

3. Grounds raised\_\_\_\_\_

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4. Result\_\_\_\_\_

5. Date of Result\_\_\_\_\_

6. Citation or number of any written opinions or orders pursuant to each such disposition.

\_\_\_\_\_

b.

1. Name of Court\_\_\_\_\_

2. Nature of proceeding\_\_\_\_\_

3. Grounds raised\_\_\_\_\_

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4. Result\_\_\_\_\_

5. Date of Result\_\_\_\_\_

6. Citation or number of any written opinions or orders entered pursuant to each such disposition.

\_\_\_\_\_

c.

1. Name of Court\_\_\_\_\_
2. Nature of proceeding\_\_\_\_\_
3. Grounds raised\_\_\_\_\_

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4. Result\_\_\_\_\_
5. Date of Result\_\_\_\_\_

6. Citation or number of any written opinions or orders entered pursuant to each such disposition.

\_\_\_\_\_

8. Was an evidentiary hearing held?

Yes ( ) No ( ) If so, state the name of the Court, and the result

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9. If your answer to 6 was NO, explain briefly why you did not seek post-conviction relief in the state courts.

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CAUTION: Exhaustion Requirement: In order to proceed in federal court you must ordinarily first exhaust your state court remedies as to each ground on which you request action by the federal court. This means that even if you have exhausted as to some grounds, you must first present all other grounds to the state court.

10. State concisely every ground on which you claim that you are being held unlawfully. Summarize briefly, the facts supporting each ground. If necessary, attach additional pages.

CAUTION: If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

a. Ground one

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Supporting FACTS (tell your story BRIEFLY without citing cases or law).

Caution: You must state facts, not conclusions in support of your grounds. (e.g., if you are claiming incompetence of counsel, you must state facts specifically setting forth what your attorney did or failed to do). A rule of thumb to follow is - who did exactly what to violate your rights at what time or place.

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b. Ground two

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Supporting FACTS (tell your story BRIEFLY without citing cases or law).

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c. Ground three

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Supporting FACTS (tell your story BRIEFLY without citing cases or law).

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d. Ground four

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Supporting FACTS (tell your story BRIEFLY without citing cases or law).

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11. If any of the grounds listed in 10 were not previously presented to this court or any other court, state briefly which grounds were not presented and give your reasons.

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12. Do you have any petition, appeal or parole matter pending in any court, either state or federal as to the judgment of conviction under attack?

Yes ( ) No ( )

13. Are you presently represented by counsel?

Yes ( ) No ( ) If so, name, address, and telephone number

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Case name and court

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WHEREFORE, petitioner prays that the court grants petitioner relief to which he may be entitled in this proceeding.

\_\_\_\_\_  
Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
Signature of Petitioner

